

Executive Summary – Enforcement Matter – Case No. 51781
Jim Wells County Fresh Water Supply District 1
RN102673506
Docket No. 2016-0110-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Jim Wells County FWSD 1, 114 Salazar Avenue, Ben Bolt, Jim Wells County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: April 22, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$183

Amount Deferred for Naturally Occurring Inorganic Contaminants: \$183

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 11 through January 22, 2016

Date(s) of NOE(s): January 22, 2016

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Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") of 0.01 milligrams per liter for arsenic based on the running annual average and failed to provide public notification and submit a copy of the public notification to the Executive Director ("ED") regarding an arsenic MCL violation [30 TEX. ADMIN. CODE §§ 290.106(f)(3) and 290.122(b)(2)(A) and (f) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91250030 [30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the ED;
 - ii. Provide public notification regarding the arsenic MCL violation for the second quarter of 2015, and provide a copy of the public notification to the ED; and
 - iii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91250030.
- b. Within 45 days, submit written certification to demonstrate compliance with a.i. and a.ii.
- c. Within 120 days, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for arsenic. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study.

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- d. Within 135 days, submit written certification to demonstrate compliance with c.
- e. Within 180 days, submit an acceptable written plan, including a proposed schedule, to the ED that provides for the completion of an alternate water source or treatment technology.
- f. Within 180 days, and on a semi-annual basis thereafter, submit progress reports. These reports shall include information regarding actions taken to provide water which meets the MCL for arsenic.
- g. Within 195 days, submit written certification to demonstrate compliance with e.
- h. Within 1,095 days, return to compliance with the MCL for arsenic based on the running annual average.
- i. Within 1,110 days, submit written certification to demonstrate compliance with h.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4076; Melissa Cordell, Enforcement Division,
MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Jake Sheeran, President, Jim Wells County Fresh Water Supply District
1, P.O. Box 428, Ben Bolt, Texas 78342-0428
Respondent's Attorney: N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	25-Jan-2016	Screening	26-Jan-2016	EPA Due	31-Dec-2015
	PCW	26-Jan-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Jim Wells County Fresh Water Supply District 1				
Reg. Ent. Ref. No.	RN102673506				
Facility/Site Region	14-Corpus Christi	Major/Minor Source	Minor		

CASE INFORMATION

Enf./Case ID No.	51781	No. of Violations	2
Docket No.	2016-0110-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaelle Garza
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$150**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **22.0%** **Adjustment** **Subtotals 2, 3, & 7** **\$33**

Notes

Enhancement for four NOV's with the same/similar violations and one NOV with a dissimilar violation.

Culpability

No

0.0%

Enhancement

Subtotal 4**\$0**

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments**Subtotal 5****\$0****Economic Benefit****0.0%** Enhancement***Subtotal 6****\$0**

Total EB Amounts **\$11,696**
Estimated Cost of Compliance **\$40,125**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal**\$183**

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%**Adjustment****\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount**\$183**

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty**\$183**

DEFERRAL

0.0%

Reduction

Adjustment**\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$183

Screening Date 26-Jan-2016

Docket No. 2016-0110-PWS-E

PCW

Respondent Jim Wells County Fresh Water Supply District 1

Policy Revision 4 (April 2014)

Case ID No. 51781

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102673506

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four NOVs with the same/similar violations and one NOV with a dissimilar violation.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 26-Jan-2016

Docket No. 2016-0110-PWS-E

PCW

Respondent Jim Wells County Fresh Water Supply District 1

Policy Revision 4 (April 2014)

Case ID No. 51781

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102673506

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 290.106(f)(3) and 290.122(b)(2)(A) and (f) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.01 milligrams per liter ("mg/L") for arsenic based on the running annual average and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding an arsenic MCL violation. Specifically, the running annual average concentration for arsenic was 0.011 mg/L for the second, third, and fourth quarters of 2015. Additionally, public notification regarding the arsenic MCL violation during the second quarter of 2015 was due by June 11, 2015, but not provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for arsenic and the failure to provide public notification has exposed persons served by the Facility to significant amounts of contaminants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

274 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	X
single event	

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDP RP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$11,696

Violation Final Penalty Total \$183

This violation Final Assessed Penalty (adjusted for limits) \$183

Economic Benefit Worksheet

Respondent Jim Wells County Fresh Water Supply District 1

Case ID No. 51781

Reg. Ent. Reference No. RN102673506

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$40,000	30-Jun-2015	1-Sep-2019	4.18	\$557	\$11,134	\$11,691
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	11-Jan-2016	1-Sep-2016	0.64	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25	11-Jun-2015	1-Sep-2016	1.23	\$2	n/a	\$2

Notes for DELAYED costs

The other delayed cost includes the estimated amount to investigate, identify, and implement the necessary corrective actions to return to compliance with the MCL for arsenic, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

The training/sampling delayed costs include the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that all public notifications are provided, calculated from the date of the record review to the estimated date of compliance. The second other delayed cost is the estimated amount to ensure that the delinquent public notification (\$25 per notification x one notification) is provided to persons served by the Facility and to the Executive Director, calculated from the due date of the public notification to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$40,125

TOTAL

\$11,696

Screening Date 26-Jan-2016

Docket No. 2016-0110-PWS-E

PCW

Respondent Jim Wells County Fresh Water Supply District 1

Policy Revision 4 (April 2014)

Case ID No. 51781

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102673506

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.51(a)(6) and Tex. Water Code § 5.702

Violation Description

Failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91250030 for Fiscal Year 2016.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Adjustment \$1,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

All penalties and interest will be determined by the Financial Administration Division at the next billing cycle.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent: Jim Wells County Fresh Water Supply District 1

Case ID No. 51781

Reg. Ent. Reference No. RN102673506

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Not applicable.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Not applicable.

Approx. Cost of Compliance

\$0

TOTAL

\$0



Compliance History Report

PUBLISHED Compliance History Report for CN602386047, RN102673506, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN602386047, Jim Wells County Fresh Water Supply District 1 **Classification:** NOT APPLICABLE **Rating:** N/A

Regulated Entity: RN102673506, JIM WELLS COUNTY FWSD 1 **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 114 SALAZAR AVENUE, BEN BOLT, JIM WELLS COUNTY, TEXAS

TCEQ Region: REGION 14 - CORPUS CHRISTI

ID Number(s):
PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1250030

Compliance History Period: September 01, 2010 to August 31, 2015 **Rating Year:** 2015 **Rating Date:** 09/01/2015

Date Compliance History Report Prepared: January 26, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 26, 2011 to January 26, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Michaelle Garza

Phone: (210) 403-4076

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	05/12/2015	(1306451)	CN602386047
	Self Report?	NO		Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)		
	Description:	ARS MCL 2Q2015 - During the 2nd quarter of 2015 the system violated the maximum contaminant level for arsenic with a RAA of 0.011 mg/L.		

- 2 Date: 07/10/2015 (1259701) CN602386047
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.39(i)(4)
 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
 Description: Failed to follow the executive director's established site specific design, operation, maintenance, and reporting requirements for systems that have been issued an exception. As per a letter dated September 15, 2014, the water system was granted an exception to use a disinfectant other than chlorine.
- 3 Date: 10/16/2015 (1306451) CN602386047
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
 Description: ARS MCL 3Q2015 - During the 3rd quarter of 2015 the system violated the maximum contaminant level for arsenic with a RAA of 0.011 mg/L.
- 4 Date: 01/11/2016 (1306451) CN602386047
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)
 Description: ARS MCL 4Q2015 - During the 4th quarter of 2015 the system violated the maximum contaminant level for arsenic with a RAA of 0.011 mg/L.
- 5 Date: 01/15/2016 (1306451) CN602386047
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
 30 TAC Chapter 290, SubChapter F 290.122(f)
 Description: ARS MCL PN 2Q2015 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for arsenic during the 2nd quarter of 2015.

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Appendix A

1	Date:	07/24/2013	(1100897)	CN602386047	Classification:	Minor			
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter D 290.39(I) 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)							
	Description:	Failed to obtain an exception to use a disinfectant other than chlorine.							
				Classification:	Minor				
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(4)(A)							
	Description:	Failed to provide a full-face self-contained breathing apparatus (SCBA) or supplied air respirator that meets OSHA standards for construction and operation which is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency.							
				Classification:	Minor				
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter D 290.38(37) 30 TAC Chapter 290, SubChapter D 290.42(m) 30 TAC Chapter 290, SubChapter D 290.46(m)							
	Description:	Failed to use maintenance and housekeeping practice to ensure the good working condition and general appearance of the system's facilities and equipment. The grounds and facilities shall be maintained in a manner so as to minimize the possibility of the harboring of rodents, insects, and other disease vectors, and in such a way as to prevent other conditions that might cause the contamination of the water.							
				Classification:	Minor				
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)							
	Description:	Failed to inspect each of the system's ground, elevated, and pressure tanks annually by water system personnel or a contracted inspection service.							
				Classification:	Minor				
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter D 290.46(s)							
	Description:	Failed to use accurate testing equipment or some other means of monitoring the effectiveness of any chemical treatment or pathogen inactivation or removal process.							
				Classification:	Minor				
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(1)(A)							
	Description:	Failed to collect routine distribution coliform samples at active service connections which are representative of water quality throughout the distribution system.							
2*	Date:	05/12/2015	(1306451)	CN602386047	Classification:	Moderate			
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)							
	Description:	ARS MCL 2Q2015 - During the 2nd quarter of 2015 the system violated the maximum contaminant level for arsenic with a RAA of 0.011 mg/L.							
3*	Date:	07/10/2015	(1259701)	CN602386047	Classification:	Minor			
	Self Report?	NO	For Informational Purposes Only						
	Citation:	30 TAC Chapter 290, SubChapter D 290.39(I)(4) 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)							
	Description:	Failed to follow the executive director's established site specific design, operation, maintenance, and reporting requirements for systems that have been issued an exception. As per a letter dated September 15, 2014, the water system was granted an exception to use a disinfectant other than chlorine.							

4	Date:	10/16/2015	(1306451)	CN602386047	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 3Q2015 - During the 3rd quarter of 2015 the system violated the maximum contaminant level for arsenic with a RAA of 0.011 mg/L.				
5	Date:	01/11/2016	(1306451)	CN602386047	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 4Q2015 - During the 4th quarter of 2015 the system violated the maximum contaminant level for arsenic with a RAA of 0.011 mg/L.				
6	Date:	01/15/2016	(1306451)	CN602386047	Classification:	Moderate
	Self Report?	NO	For Informational Purposes Only			
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)				
	Description:	ARS MCL PN 2Q2015 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a violation of the maximum contaminant level for arsenic during the 2nd quarter of 2015.				

* NOVs applicable for the Compliance History rating period 9/1/2010 to 8/31/2015

Appendix B

All Investigations Conducted During Component Period January 26, 2011 and January 26, 2016

Item 1	January 23, 2012**	(937780)	For Informational Purposes Only
Item 2	July 24, 2013**	(1100897)	For Informational Purposes Only
Item 3	November 18, 2013**	(1122319)	For Informational Purposes Only
Item 4	March 21, 2014**	(1152835)	For Informational Purposes Only
Item 5	October 01, 2014**	(1191231)	For Informational Purposes Only
Item 6	January 20, 2016	(1306451)	For Informational Purposes Only
Item 7	January 22, 2016	(1306520)	For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2010 and 08/31/2015.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
JIM WELLS COUNTY FRESH
WATER SUPPLY DISTRICT 1
RN102673506

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2016-0110-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jim Wells County Fresh Water Supply District 1 (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341 and TEX. WATER CODE ch. 5. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 114 Salazar Avenue in Ben Bolt, Jim Wells County, Texas (the "Facility") that has approximately 668 service connections and serves at least 25 people per day for at least 60 days per year.
2. During a record review conducted from January 11, 2016 through January 22, 2016, TCEQ staff documented that the running annual average concentration for arsenic was 0.011 milligrams per liter ("mg/L") for the second, third, and fourth quarters of 2015. Additionally, public notification regarding the arsenic maximum contaminant level ("MCL") violation during the second quarter of 2015 was due by June 11, 2015, but not provided.
3. During a record review conducted on January 26, 2016, TCEQ staff documented that the Respondent did not pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91250030 for Fiscal Year 2016.
4. The Respondent received notice of the violations on February 2, 2016.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341, TEX. WATER CODE ch. 5, and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the MCL of 0.01 mg/L for arsenic based on the running annual average and failed to provide public notification and submit a copy of the public notification to the Executive Director regarding an arsenic MCL violation, in violation of 30 TEX. ADMIN. CODE §§ 290.106(f)(3) and 290.122(b)(2)(A) and (f) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to pay public health service fees, including late fees, for TCEQ Financial Administration Account No. 91250030, in violation of 30 TEX. ADMIN. CODE § 290.51(a)(6) and TEX. WATER CODE § 5.702.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of One Hundred Eighty-Three Dollars (\$183) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). One Hundred Eight-Three

Dollars (\$183) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the Executive Director may request the Respondent to pay all or part of the deferred administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Hundred Eighty-Three Dollars (\$183) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jim Wells County Fresh Water Supply District 1, Docket No. 2016-0110-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122;
 - ii. Provide public notification regarding the arsenic MCL violation for the second quarter of 2015, and provide a copy of the public notification to the Executive Director, in accordance with 30 TEX. ADMIN. CODE § 290.122; and

- iii. Submit payment for all outstanding fees, interest, and penalties for TCEQ Financial Administration Account No. 91250030. The payment shall be sent with the notation "Jim Wells County Fresh Water Supply District 1, Financial Administration Account No. 91250030" to the address listed in Ordering Provision No. 1, above.
- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i below to demonstrate compliance with Ordering Provision Nos. 2.a.i and 2.a.ii.
- c. Within 120 days after the effective date of this Agreed Order, complete a feasibility study, or update an existing feasibility study, and submit a written report or engineering study conducted by a Texas registered professional engineer regarding the results of the feasibility study to evaluate the necessary corrective actions designed to achieve compliance with the MCL for arsenic. The report shall include a tentative schedule describing additional studies, tests, or other methods that may be utilized for the completion of necessary corrective actions within 1,095 days after the effective date of this Agreed Order. If the Respondent purchases or sells water, a copy of the purchase water contract must be submitted with the feasibility study report or engineering study. The evaluation shall be sent to the addresses listed in Ordering Provision No. 2.i.
- d. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i below to demonstrate compliance with Ordering Provision No. 2.c.
- e. Within 180 days after the effective date of this Agreed Order, submit an acceptable written plan, including a proposed schedule, to the Executive Director that provides for the completion of an alternate water source or treatment technology to the addresses listed in Ordering Provision No. 2.i.
- f. Within 180 days after the effective date of this Agreed Order, and on a semi-annual basis thereafter, submit progress reports to the addresses listed in Ordering Provision No. 2.i below. These reports shall include information regarding actions taken to provide water which meets the MCL for arsenic.
- g. Within 195 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.i below to demonstrate compliance with Ordering Provision No. 2.e.
- h. Within 1,095 days after the effective date of this Agreed Order, return to compliance with the MCL for arsenic, based on the running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.106.
- i. Within 1,110 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation

including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.h. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



7/21/16

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of Jim Wells County Fresh Water Supply District 1. I am authorized to agree to the attached Agreed Order on behalf of Jim Wells County Fresh Water Supply District 1, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Jim Wells County Fresh Water Supply District 1 waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
 - Greater scrutiny of any permit applications submitted;
 - Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
 - Increased penalties in any future enforcement actions;
 - Automatic referral to the Attorney General's Office of any future enforcement actions; and
 - TCEQ seeking other relief as authorized by law.
- In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

MARCH 29, 2016
Date

JAKE SHEERAN
Name (Printed or typed)
Authorized Representative of
Jim Wells County Fresh Water Supply District 1

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.